

INTERNAL REVENUE SERVICE
District Director

Department of the Treasury

[REDACTED]
Date: October 27, 1994

[REDACTED]
Person to Contact:

[REDACTED]
Telephone Number:
[REDACTED]

Dear Applicant:

We have considered your application for exemption from Federal Income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were Incorporated under the non profit Corporation laws of the State of [REDACTED] on [REDACTED].

The purpose of your organization per your Articles of Incorporation is, "To promote the interests of [REDACTED] families who are seeking to provide in the private sector, a morally sound, quality education for children."

FACTS:

Per your application, Form 1023 the activities of your organization are as follows:

"1) Annual convention - to convene home schoolers statewide providing opportunity to hear nationally recognized special speakers discuss home school issues; to provide workshops on family, parenting and home school subjects; held annually in [REDACTED] since [REDACTED]; presented by [REDACTED]."

2) Monthly Newsletter - To provide members of the association updates on association activities, state and local; inform of pertinent state and national issues; begun in [REDACTED] by [REDACTED].

3) Assistance for standardized testing providing information packets to new home schoolers. Carried on during the period of this application.

4) Local information meetings to provide assistance to home schoolers.

5) Brochure - provide information relating to [REDACTED] and its activities to interested parties."

The organization also provides information to members regarding proposed or pending legislation on the state and national levels.

that relates to educational issues.

According to the supplementary information submitted your past activities consisted of:

- 1) Monthly newsletter
- 2) President spoke at local homeschool support group meeting
- 3) Held [REDACTED] board meetings
- 4) Published Resource Guide
- 5) Published brochures describing organization and how to join
- 6) Sent information packet to anyone inquiring
- 7) Day convention

The proposed activities for the next year are almost identical to the past activities.

The pamphlet you send to prospective members state the following:

"WHAT IS [REDACTED]?"

[REDACTED] is a membership based coalition of parents and others who have agreed to a positional statement and have banded together for the furtherance of educational excellence through alternatives to the government-operated public schools.

[REDACTED] works to promote the cause of private education on two levels:

1. Supportive interrelationships

Provide networking agency to foster contact and interaction between various schools and homeschool groups through the state. Promotes greater cooperation between family and school by directing attention to the essential importance of parental teaching.

Annual Convention - [REDACTED] holds an annual convention which encourages family participation and includes a keynote speaker, relevant workshops and curriculum displays.

2. Political Involvement

Foster and protects a climate of non-interference for private education in [REDACTED] by direct involvement in the political process. This is accomplished by providing information on issues and candidates and by acting as a liaison between private education and the [REDACTED] legislature.

Keeps [REDACTED] members informed through regular bulletins concerning pertinent legislation and Department of Education activities.

[REDACTED] is committed to assisting parents and other private educators in their efforts to develop sound curricula and to instill the "sound practical habits" of "diligence, industry, and

self-government" in the next generation of [REDACTED].

Support for the organization is from convention, membership dues, and newsletter. Although the application states that the organization receives support from donation, the actual financial information submitted for [REDACTED] and [REDACTED] shows income received only from dues, newsletter advertising and gross receipts. Expenses are for postage, phone, printing, newsletter, convention, resource material and travel.

ISSUE:

Does the organization qualify for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code or whether they qualify for exemption as an organization described in either section 501(c)(4) or section 501(c)(6) of the Internal Revenue Code.

LAW:

Section 501(c)(3) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads in part, as follows:

"(3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distribution of statement), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(a)(1) of the income tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of organization (a) limit the purposes of such organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage otherwise than an insubstantial part of its activities, in activities which in

themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)(c)(3)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

LAW:

Section 501(c)(4) of the Code exempts from Federal income tax an organization which fosters the common good and general welfare of the community and reads in part as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local association of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(4)-1(a)(2)(i) of the income tax Regulations provide that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

One of the major distinctions between section 501(c)(3) and section 501(c)(4) organizations is the amount of activity that may be devoted to non exempt purposes. The Regulations under Internal Revenue Code 501(c)(3) provide that an organization will be regarded as operated "Exclusively" for one or more exempt purposes only if it engages "primarily" in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). Section 1.501(c)(3)-1(c)(1) states that an organization is not so operated if more than an "insubstantial" part of the activities is not in furtherance of an exempt purpose. (It is important to recognize that activities and purposes are two different things, but that activities may well be indicative of purposes). The Supreme Court stated in *Better Business Bureau v. United States*, 326 U.S. 279, 66 S. CT. 112, 90 L. Ed. 67 "...the presence of a single (non charitable) purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly (charitable) purposes."

See *Church of Boston v. Commissioner*, (1978) 71 T.C. 102; *Colorado State Chiropractic Society*, (1989) 93 T.C. 487; *Best Lock Corporation*, (1959) 31 T.C. 1217; *St. Louis Science Fiction Limited v. Commissioner*, T.C. Memo 1985-162 and *Minnesota Kingsmen Chess Association Inc. v. Commissioner*; T.C. Memo 1983-495; all of these court cases held that the presence of a single non-exempt purpose and substantial non 501(c)(3) activities results

in loss of exemption despite the presence of other exempt purposes.

Regulations 1.501(c)(3)-1(c)(1) holds that an organization is not operated exclusively for one or more exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The organization can engage in non exempt activities as long as the activities are only incidental and less than substantial or limited and temporary.

Revenue Rulings 71-504 and 71-505 both denied exemption under section 501(c)(3) of the Code because the organization had substantial non 501(c)(3) activities.

Revenue Ruling 65-195 holds that an organization organized and operated for the purpose of rendering civic services for the promotion of the welfare of the community and its citizens is exempt from taxation under the provisions of section 501(c)(4) of the Internal Revenue Code of 1954.

LAW:

Section 501(c)(6) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads in part, as follows:

"(6) Business leagues, chamber of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the Income Tax Regulations provides, in part, as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest. It is an organization of the same general class as a chamber of commerce or board of trade."

Many 501(c)(6) organizations may engage in significant educational and community improvement activities. Therefore, some of their activities may actually further 501(c)(3) purposes.

The presence of a single noncharitable or noneducational activity, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of the number or importance of truly charitable or educational activities. See *Better Business Bureau v. U.S.*, 326 U.S. 279 (1945), Ct. D. 1650, C.B. 1945, 375.

Revenue Rulings 71-504 and 71-505 both denied exemption under section 501(c)(3) of the Code because the organizations had

substantially non 501(c)(3) activities.

ANALYSIS:

The organization's activities are not "Exclusively" 501(c)(3) activities. The convention schedule submitted for [REDACTED] breakdown the activities of the convention as shown:

FRIDAY, [REDACTED]

7:00 Exhibit Hall open
7:30 Home School Choir
7:45 [REDACTED] "Little Bear" [REDACTED]
on Guard (The Sgt. Driscoll Story)
10:00 Exhibit Hall Closes

SATURDAY, [REDACTED]

8:00 Registration/Exhibit Hall open
8:30 "Little Bear" [REDACTED]
Father's Shoes + Mother's Apron = God's Mantle
10:00 Break
10:30 [REDACTED] President [REDACTED]
How Home Schooling Will change America
11:00 Annual Business meeting
11:15 [REDACTED]
Teaching World Views: Foundations of Christian Education
12:30 lunch break
1:30: "Little Bear" [REDACTED]
Pilgrims: An Historical Perspective on Courtship vs Dating
2:45 dinner break (Exhibit Hall open)
3:30 [REDACTED]
Curriculum: Your Servant or Your Master?
4:45 dinner break (Exhibit Hall open)
6:30 "Little Bear" [REDACTED]
God's Mandate to Preserve America
8:30 Exhibit Hall closes

The convention's topics all promote the improvement of the Home School method of schooling in [REDACTED] rather than educational as described in section 501(c)(3) of the Internal Revenue Code.

Revenue Ruling 67-4, 1967-1 C.B. 121, recognizes that publication of scientific and medical literature may further educational and scientific purposes if (1) the content of the publication is educational, (2) the preparation of material follows methods generally accepted as "educational" in character, (3) the distribution of the materials is necessary or valuable in achieving the organization's exempt purposes, and (4) the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

The organization's newsletter does not meet the four qualifications for "Educational" as described in Revenue Ruling 67-4. More than three quarters of the newsletter is devoted to topics such as:

- 1) Notes from the president
- 2) Nominations
- 3) Kids ages 10 and up and their parents (Pizza Party)
- 4) Tour of Channel [REDACTED]
- 5) Bumper Bowling
- 6) Basketball Clinics
- 7) Ice skating
- 8) violin lessons
- 9) Christian Home Education support Group
- 10) The Home School Swim
- 11) Gym Day

The newsletter is not similar to the publishing of a monthly journal (medical) or legal articles as described in Revenue Rulings 71-504 and 71-505. The organization's Reference Guide is just that, a reference guide, not an educational journal.

The financial information submitted shows funds pinheaded for the following:

	[REDACTED]	[REDACTED]
Printing	\$ [REDACTED]	\$ [REDACTED]
Convention	[REDACTED]	[REDACTED]
Resource	[REDACTED]	[REDACTED]
Newsletter	[REDACTED]	[REDACTED]
Total	\$ [REDACTED]	\$ [REDACTED]

The organization expended approximately [REDACTED] percent of their funds on the convention and printing in [REDACTED] and [REDACTED] percent of their funds on printing in [REDACTED]. They show no expenditure for a [REDACTED] or [REDACTED] newsletter though a newsletter was submitted with the application and the supplementary information submitted shows newsletters as a part of the organization's past activities.

CONCLUSION:

To be considered for tax-exempt status under section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. Also, its activities must be restricted to those permitted a section 501(c)(3) organization.

Based on the information submitted, we have concluded that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, inasmuch as you are not "Operated Exclusively" for any of the specified purposes within section 501(c)(3) of the Internal Revenue Code, but may be operated "primarily" for social welfare purposes within the meaning of section 501(c)(4) or as a professional organization as described in section 501(c)(6) of the Internal Revenue Code.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position, as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 90 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination.

Section 7423(b)(2) of the Internal Revenue Code provides in part that "declaratory judgment of decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Enclosure:
Publication 892
Form 6018